

Request for removal of
one 16.0-inch diameter Holly tree,
located in the west (rear) yard of the property.

Mr. & Mrs. John Campanella
5910 Cedar Parkway

**CHEVY CHASE VILLAGE
BOARD OF MANAGERS
APRIL 8, 2013 MEETING**

STAFF INFORMATION REPORT

TO: BOARD OF MANAGERS
FROM: ELLEN SANDS, PERMITTING AND CODE ENFORCEMENT COORDINATOR
DATE: 4/4/2013
SUBJECT: TREE REMOVAL APPEAL
MR & MRS. JOHN CAMPANELLA, 5910 CEDAR PARKWAY
FOR REMOVAL OF ONE 16.0-INCH DIAMETER HOLLY TREE,
LOCATED IN THE WEST (REAR) YARD OF THE PROPERTY.

APPLICABLE CHEVY CHASE BUILDING REGULATION:

The Chevy Chase Village Code §17-4 states in pertinent part:

(c) Appeal procedures

The Tree Ordinance Board shall determine if the tree(s) has such outstanding qualities that it should not be removed. If the Tree Ordinance Board finds that the tree is a candidate for removal, the Tree Ordinance Board shall meet with the applicant and/or the applicant's representative as soon as practicable but no later than ten (10) days after an appeal is filed. The Tree Ordinance Board shall work with the applicant to develop a reforestation plan which, taking into consideration the factors in Section 17-6, the Tree Ordinance Board finds would not adversely affect the public health, safety or welfare, nor the reasonable use of adjoining properties and would not substantially impair the purpose and intent of this Chapter. In developing the reforestation plan, the Tree Ordinance Board will affirmatively solicit input from residents of adjoining and confronting properties and from the Village Arborist.

If the applicant agrees to a reforestation plan that the Tree Ordinance Board finds meets the standards in sub-section (1) above, the Tree Ordinance Board shall prepare a report to the Board of Managers and the matter will be placed on the consent agenda for approval at the next Board of Managers meeting that is at least ten (10) days after the issuance of the Tree Ordinance Board's report. The matter may be removed from the consent agenda only at the request of two (2) or more members of the Board of Managers.



Figure 1: View (looking east) of the subject Holly tree is located.

FACTUAL AND BACKGROUND INFORMATION:

Following the procedures laid out in Resolution 01-01-12, adopted in March of 2012, the Applicants met with the Tree Ordinance Board (report enclosed) regarding the removal of the Holly, and have agreed to reforest (see enclosed location plan) per a Consent Agreement (enclosed).

One email note was received from an abutting neighbor (enclosed) to which Committee Chair Mr. Sam Lawrence responded (response enclosed).

Memo to Board of Managers

April 4, 2013

Subject: Consent agreement for tree removal, 5910 Cedar Parkway

Attached for your review is a consent agreement providing that a holly of approximately 16" dia. May be removed by John and Kathy Campanella from their property at 5910 Cedar Parkway provided that a 2.5" caliper deciduous tree of a species that will grow to a height of 45' or more at maturity is planted in the northwest corner of their property at 5910 Cedar Parkway within six months of the holly's removal. The agreement has the unanimous support of the Tree Ordinance Board. On March 30 the Campenallas four immediate neighbors, the Chevy Chase Club (which borders their property to the north) and members of the Tree Committee were informed of the proposed takedown and reforestation. One neighbor responded with several questions which I have sought to respond.

Submitted by: Sam Lawrence, TOB chair

CONSENT AGREEMENT

RECITALS

CHEVY CHASE VILLAGE, hereinafter referred to as the "Village", is a Maryland municipal corporation which is authorized to and does regulate the removal, destruction and impairment of certain trees on private property as set forth in Chapter 17, entitled Urban Forest, of the Chevy Chase Village Code.

John J and Kathy M Campanella, hereinafter referred to collectively as the "OWNER", are residents of the Village and sole owners of property in the Village, consisting of Lot 20, in Block 24, in the subdivision known as SECTION 2, CHEVY CHASE, as per plat 21471, being a resubdivision of Parts of Lots 12 and 13 in the subdivision known as "Section 2 Chevy Chase" as per plat thereof duly recorded among the land records of Montgomery County, Maryland in Plat Book 2 at Plat Number 106, also known as 5910 Cedar Parkway,

The Owners requested a permit from the Village Manager under Section 17-3 of the Village Code to remove one 16.0-inch diameter Holly tree (the trunk of which measures more than 24 inches in circumference at 4- ½ feet above ground and therefore requires a permit for removal) and located approximately five feet from the eastern boundary of their rear yard as indicated on the plan attached hereto as Exhibit A. The Village Manager denied the permit for failure to meet any of the conditions set forth in Section 17-3.

Under Section 17-4 of the Village Code, the Owners have appealed the denial of the permit. Under Section 17-5 of the Village Code, the Board of Managers of Chevy Chase Village has delegated the initial administration of appeals under Section 17-4 to a three-member Tree Ordinance Board ("TOB").

The Owners stated a desire to remove the tree because it is located too close to the home, is several feet from the deck and it sheds sharp needled leaves onto grass where children and pets play. The TOB has met with the Owners and visited the property at 5910 Cedar Parkway. The TOB, after consulting with the Village arborist, unanimously concluded that the tree proposed to be removed was not by reason of its age, size or outstanding qualities, including uniqueness, rarity or species specimen, of such nature as to require its preservation. The owners have agreed that, if allowed to remove the tree, they will reforest by planting a 2.5" caliper (or larger) deciduous tree that will grow to 45' or more in the northwest corner of their property.

On March 30, 2013 the Chair of the TOB sent letters to four neighboring properties and to the Chevy Chase Club to inform them of the proposed take down and reforestation plan. On March 30, the members of the Village Tree Committee were given email notice of the proposed removal and reforestation. All parties were asked to submit comments or objections by 5 p.m. Wed. April 3, 2013. No comments or objections were received by the TOB. (NOTE: none as of Monday April 1, 2013 5:00 pm)

Based on the foregoing, the TOB recommends that the Owners' request to remove the subject Holly tree be granted conditioned on the Owners agreeing to reforest with a Red Maple (or other deciduous species acceptable to the TOB) of a least 2.5" caliper to be located in the northwest corner of their property within six months from the effective date of this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings and obligations herein contained, One Dollar (\$1.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Village and the Owners hereby agree and covenant as follows:

1. The Owners agree to reforest within six months from the effective date of this Consent Agreement by planting a Red Maple tree (or other deciduous tree acceptable to the TOB) of at least 2 ½-inches in caliper approximately 10 feet from the northwest corner of their rear yard as depicted in Exhibit A and to replace such tree if it becomes diseased or

dies within two years of the effective date of this Agreement. The Owners further agree to notify the Village Manager when the tree has been planted.

2. The Owners agree to maintain the reforestation tree at the Owners' sole expense and the Owners shall not remove, destroy, or impair the health of the reforestation tree in any way without the express prior written consent of the Village.

3. Any changes or modifications to the reforestation plan shall require the further written consent of the Village, which may be withheld in the Village's sole discretion.

4. The Owners acknowledge that compliance with this Consent Agreement is necessary for the protection of the public health, safety and welfare of the residents of the Village and acknowledge and agree, in the event of Owners' breach of this Agreement, that the Village would not have an adequate remedy at law, and the Village shall be entitled to specific performance of the Owners' obligations and to injunctive relief related thereto without posting a bond or proving actual damages, in addition to any other remedies which may be available. The Owners further agree that the costs incurred by the Village, including legal expenses, shall be charged to the Owners and may be assessed against the Owners' property along with property taxes. The Owners further agree not to contest any action brought by the Village to obtain specific performance and injunctive relief under this Agreement. The Owners also agree that, if they fail to complete their reforestation obligations, the Village shall have the right to enter upon the Owners' property as it deems proper to install the reforestation tree.

5. The Owners also acknowledge that the Village and the public residing in the Village would incur substantial damages in the event of Owners breach of the requirements of this Agreement, including, but not limited to, the costs of staff time, arborist time, and other expenses incurred in enforcing this Agreement and the diminution of the Village's tree canopy. The parties recognize the difficulty in computing actual damages and, accordingly, agree to liquidated damages for the aforesaid costs, delay, and harm to the public. The parties acknowledges that liquidated damages of \$1,000.00 are a reasonable estimate, at the time

of the execution of this Agreement, of the damages to the Village and the public that will likely occur as a result of the Owners' failure to perform their obligations under this Agreement. The Owners acknowledge that the liquidated damages agreed to are not a penalty and that they, along with any costs incurred by the Village, including legal expenses, may be assessed against the Property along with property taxes.

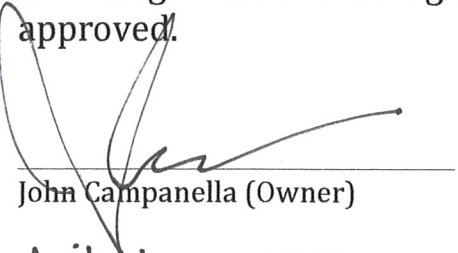
6. The Owners shall be jointly and severally liable for their obligations hereunder and expressly waive any right to a jury trial.

7. By signing this Agreement the undersigned Owners represent to the Village that they are all of the Owners of the property described above at 5910 Cedar Parkway.

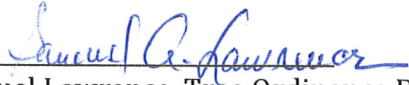
10. By signing the Agreement, the Chairman of the TOB or his delegate signifies that the TOB has approved this Consent Agreement and has recommended its adoption by the Village Board of Managers.

11. By signing this Agreement, the Village Manager signifies that the Village Board of Managers has approved this Consent Agreement.

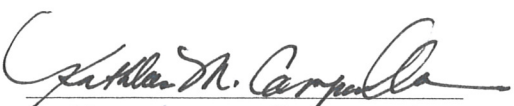
12. The effective date of this Consent Agreement is the date the Village Manager signs the Agreement signifying that she has been informed by the Village Board of Managers that the Consent Agreement has been approved.


John Campanella (Owner)

April 1, 2013

By: 
Samuel Lawrence, Tree Ordinance Board

April 4, 2013

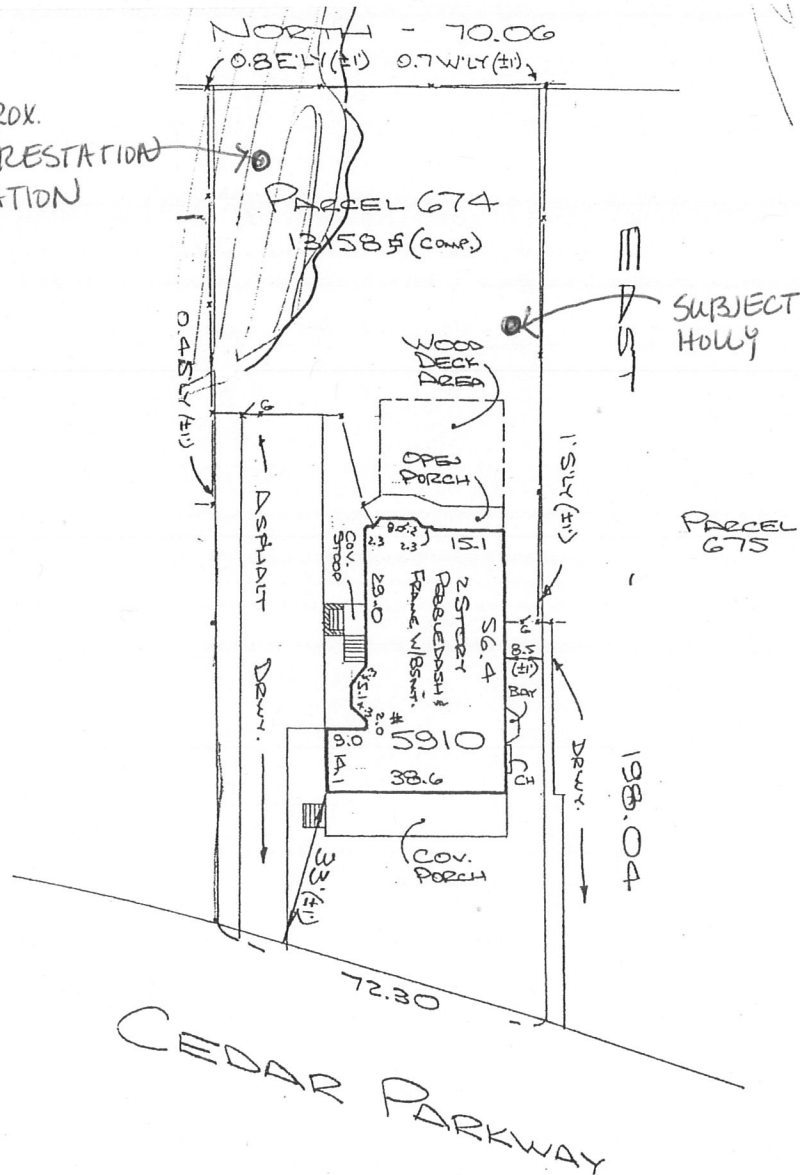

Kathleen Campanella (Owner)

4/1/, 2013

By: _____
Shana R. Davis-Cook, Village Manager

_____, 2013

APPROX.
REFORESTATION
LOCATION



Capitol Surveys, Inc.

10762 Rhode Island Avenue
Beltsville, Maryland 20705
Phone 301-931-1350
Fax 301-931-1352

NOTES: Plat is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing; the plat is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements; and the plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing.

LOCATION DRAWING

PARCEL 674
LIBER 6807 Folio 159
MONTGOMERY COUNTY, MARYLAND

Recorded in Plat Book - Plat - Scale 1" = 30'

CASE: 1165-12 FILE: 96096

DATE: JULY 25, 2012

I hereby certify this location drawing was prepared in accordance with the minimum standards of practice for the State of Maryland and is correct to the best of my belief of what can be visually and physically observed.

Edward L. Lopez, Jr.
Edward L. Lopez, Jr.

Maryland Property Line Surveyor No. 522
License Current Through February 13, 2013

From: phil.gilliam62@gmail.com
To: Samandpol@aol.com
Sent: 4/2/2013 2:00:10 P.M. Eastern Daylight Time
Subj: Campanella's tree removal

Dear Mr. Lawrence,

We are submitting our questions and comment regarding the Campanella's tree removal and replacement.

First, will the tree and stump removal damage the fine hair roots of existing trees, especially the three large tulip poplars in our back yard?

Second, what is the time frame for planting the replacement tree?

Third, the Campanellas have indicated that they are planning future projects. How will the future construction on their property affect the roots of their replacement tree and neighboring tree roots?

Finally, it is unfortunate that they are removing a large healthy tree.

Clare Gilliam

From: Samandpol@aol.com
To: phil.gilliam62@gmail.com
CC: tfeather@xecu.net
Sent: 4/3/2013 9:54:53 A.M. Eastern Daylight Time
Subj: Re: Campanella's tree removal

Thanks for your note. I will answer to the best of my knowledge but am also forwarding it to Tolbert Feather, Village arborist, for any further advice he may have.

1. removal of the holly stump. The Tree Ordinance Bd. (TOB) determination relates only to take down of the tree. Whether also to remove the stump is the Campanella's decision. The stump removal process is usually simply grinding out the core portion of the stump so I would expect little/no damage to other roots. In this case, the tree to be removed is probably some 50' or more from your property and would, I think, be out of the range of the roots of your trees.

2. time for replacement. The Campanellas have agreed to reforest within six months of the holly's removal.

3. future plans. I have no information beyond knowing that the Campanellas are considering some further development of their property, including additional landscaping. The TOB will get involved only if there are additional large and healthy trees for which take down permits are requested.

I and other members of the TOB share your concern for the vitality of our urban forest and hope in this case that the proposed replacement tree will, as it grows, be a beauty and enhance your property as well as the village canopy at large.

Best regards Sam Lawrence

Chevy Chase Village
Tree Inspection Request Form

Property Address: <u>5910 Cedar Phwy</u>
Date this form submitted to Village office: <u>9/28/12</u>
Resident Name: <u>K. Campanella</u> Phone: E-mail:
This request initiated by: <input type="checkbox"/> Village office staff. <input checked="" type="checkbox"/> Resident/property owner
<input checked="" type="checkbox"/> Inspect tree(s) ¹ requested for removal -- are any conditions in CCV Code Sec. 17-3(a) met? [\$50/tree fee] <input type="checkbox"/> Inspect trees ¹ on property to determine if a Tree Protection Plan (TPP) is needed for proposed project ² . <input type="checkbox"/> Pursuant to a Village Bldg Permit application ² , prepare TPP for trees ¹ on property [\$250 fee] <input type="checkbox"/> Verify that a TPP has been implemented for Village Building Permit # _____. <input type="checkbox"/> Follow up on an existing TPP -- is it OK to remove TPP? <input type="checkbox"/> Village right-of-way/park <input type="checkbox"/> Other: <small>¹ Show location of tree(s) on a plat or site plan (or on diagram on reverse, but only if plat unavailable). ² Attach full description of proposed project.</small>

Sections below must be completed by Village Arborist:

Tree #1: ☒ Private Property ☐ Village right-of-way
Location: ☒ Rear ☐ Front ☐ Side-L ☒ Side-R
DBH* = 21/2" Species: Am Holly Tag#: n/a: no tag.
Assessment: Spl/4 trunk, could be hazardous may remain

Tree #2: ☒ Private Property ☐ Village right-of-way
Location: ☒ Rear ☐ Front ☐ Side-L ☒ Side-R
DBH* = 16" Species: Am Holly Tag#: n/a: no tag.
Assessment: Healthy

Tree #3: ☐ Private Property ☐ Village right-of-way
Location: ☐ Rear ☐ Front ☐ Side-L ☐ Side-R
DBH* = _____ Species: _____ Tag#: _____ ☐ n/a: no tag.
Assessment: _____

(For more trees, please check here ☐ and attach pages: # of extra trees ____; # of extra pages ____.)

Arborist assessment: Does tree meet any of the conditions in Village Code 17-3 to qualify for removal?

Removal Approved	Denied	*Is permit required? (i.e, is trunk circumf. $\geq 24"$?)	Y	N
Tree #1 <input checked="" type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tree #2 <input type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tree #3 <input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Arborist Signature [Signature]

Date 9/28/12

Diagram for Tree Inspection

(use this diagram *ONLY* if a plat or site survey is unavailable)

Instructions for Arborist (or) Notes from Arborist:

Rear of house

Side-Left

Side-Right

Street

APPEAL
0-#2 (denied)
0-#1 (approved)

MAILING LIST FOR TREE REMOVAL

MR. & MRS. JOHN CAMPANELLA
5910 CEDAR PARKWAY
CHEVY CHASE, MD 20815

Adjoining and confronting property owners	
Mr. William West Or Current Resident 5912 Cedar Parkway Chevy Chase, MD 20815	Ms. Clare M. Gilliam Or Current Resident 5908 Cedar Parkway Chevy Chase, MD 20815
Mr. & Mrs. Charles A. Hobbs Or Current Resident 33 West Kirke Street Chevy Chase, MD 20815	Mr. & Mrs. Mark H. Eig Or Current Resident 34 West Kirke Street Chevy Chase, MD 20815
Chevy Chase Club Or Current Occupant 6100 Connecticut Avenue Chevy Chase, MD 20815	